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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Amjad Hanif et al.

Title: FEEDBACK CANCELLATION IN A NETWORK-BASED TRANSACTION FACILITY

Docket No.: 2043.022US1
Filed: December 30, 2003
Examiner: Susanna Meinecke-Diaz

Serial No.: 10/749,736
Due Date: January 1, 2007
Group Art Unit: 3694

MS Appeal Brief - Patents
Commissioner for Patents
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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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PATENT

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Examiner: Susanna Meinecke-Diaz

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Title: FEEDBACK CANCELLATION IN A NETWORK-BASED TRANSACTION FACILITY

APPEAL BRIEF UNDER 37 CFR § 41.37

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The Appeal Brief is presented in response to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on December 1, 2006 and further in support of the Notice of Appeal to the Board of Patent Appeals and Interferences, filed on September 27, 2006, from the Final Rejection of claims 1-7, 9-25 and 27-34 of the above-identified application, as set forth in the Final Office Action mailed on July 28, 2006.

The Commissioner of Patents and Trademarks is hereby authorized to charge Deposit Account No. 19-0743 in the amount of \$500.00 which represents the requisite fee set forth in 37 C.F.R. § 41.20(b)(2). Appellants respectfully request consideration and reversal of the Examiner's rejections of pending claims.

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1. REAL PARTY IN INTEREST

The real party in interest of the above-captioned patent application is the assignee, EBAY INC., as evidenced by the assignment from the inventors recorded December 30, 2003 at Reel 014862, Frame 0301.

2. RELATED APPEALS AND INTERFERENCES

Appellants note to the Board that there is an appeal pending in related U.S. Application Serial No. 09/503,960, filed February 14, 2000.

3. STATUS OF THE CLAIMS

The present application was filed on December 30, 2003 with claims 1-34. A non-final Office Action was mailed February 3, 2006. A Final Office Action (hereinafter “the Final Office Action”) was mailed July 28, 2006. Claims 8 and 26 are cancelled. Claims 1-7, 9-25 and 27-34 stand twice rejected, remain pending, and are the subject of the present Appeal.

4. STATUS OF AMENDMENTS

No amendments have been made subsequent to the Final Office Action dated July 28, 2006.

5. SUMMARY OF CLAIMED SUBJECT MATTER

This summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellant refers to the appended claims and its legal equivalents for a complete statement of the invention.

Claim 1

The present application discloses subject matter that includes, but is not limited to subject matter recited in claim 1, the preamble of claim 1 reciting “An apparatus comprising” (e.g., Figure 6, callout 600; paragraphs 33 – 38). Claim 1 requires “a feedback cancellation request receiver to receive a request to cancel feedback pertaining to a transaction in a network-based transaction facility from a first party to the transaction” (e.g., Figure 6, callout 602; paragraphs 34, 40, and 49).

Claim 1 further requires, “a feedback cancellation criteria evaluator to automatically determine whether one or more feedback cancellation criteria are satisfied” (e.g., Figure 6, callout 604; paragraphs 34, 35, 41, 42, 44, 45, 50, 53, 62, and 65).

Claim 1 further requires, “a feedback cancellation recorder to cancel the feedback pertaining to the transaction if the one or more feedback cancellation criteria are satisfied, the feedback cancellation recorder further to mark the feedback pertaining to the transaction as withdrawn” (e.g., Figure 6, callout 608; paragraphs 34, 37, 46, and 70).

Claim 1 further requires “a feedback user interface generator to generate a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn” (e.g., Figure 6, callout 612; paragraphs 34, 38, 45, 47; Figure 24, callout 2402, paragraph 71).

Claim 10

The present application further discloses subject matter that includes, but is not limited to subject matter recited in claim 10, the preamble of claim 10 reciting “A system comprising:”

(e.g., Figure 25, callout 2500; paragraphs 72-74). Claim 10 requires, “memory” (e.g., Figure 25, callouts 2502, 2504, 2506; paragraphs 72-74).

Claim 10 further requires “a processor (e.g., Figure 25, callout 2502, paragraph 72-74), coupled to the memory (e.g., Figure 25, callouts 2502, 2504, 2506; paragraphs 72-74), to receive a request to cancel feedback pertaining to a transaction in a network-based transaction facility from a first party to the transaction (e.g., Figure 7, callout 702, paragraph 40, Figure 8, callout 804, paragraph 49), to automatically determine whether one or more feedback cancellation criteria are satisfied (e.g., Figure 7, callouts 704, 710, paragraphs 41, 42, 44, 45; Figure 8, callout 806, 814, paragraphs 50, 52, 53; Figure 9, callout 906, 912, paragraphs 62, 65), and to cancel the feedback pertaining to the transaction if the one or more feedback cancellation criteria are satisfied by marking the feedback pertaining to the transaction as withdrawn (e.g., Figure 7, callout 720, paragraph 46; Figure 9, callout 924, paragraph 70), the processor further to generate a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn” (Figure 24, callout 2402, paragraph 71).

Claim 16

The present application further discloses subject matter that includes, but is not limited to subject matter recited in claim 16, the preamble of claim 16 reciting “A computer-implemented method to cancel feedback pertaining to a transaction in a network-based marketplace, the method comprising” (e.g., Figure 7, callout 700, paragraphs 39-47; Figure 8, callout 800, paragraphs 47-59; Figure 9, callout 900, paragraphs 47, 60-71). Claim 16 requires, “receiving a request to cancel feedback pertaining to the transaction in the network-based transaction facility from a first party to the transaction” (e.g., Figure 7, callout 702, paragraphs 40).

Claim 16 further requires, “automatically determining whether one or more feedback cancellation criteria are satisfied” (e.g., Figure 7, callout 704, paragraphs 41).

Claim 16 further requires, “canceling the feedback pertaining to the transaction, the canceling of the feedback pertaining to the transaction including marking the feedback pertaining to the transaction as withdrawn” (e.g., Figure 7, callout 720, paragraph 46).

Claim 16 further requires, “generating a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn” (Figure 24, callout 2402, paragraph 71).

Claim 30

The present application further discloses subject matter that includes, but is not limited to subject matter recited in claim 30, the preamble of claim 30 reciting “A computer readable medium comprising instructions, which when executed on a processor, cause the processor to perform a method comprising” (e.g., Figure 25, callouts 2524, 2526, 2502, paragraphs 72 - 74). Claim 30 requires, “receiving a request to cancel feedback pertaining to a transaction in a network-based transaction facility from a first party to the transaction” (e.g., Figure 7, callout 702, paragraphs 40).

Claim 30 further requires, “automatically determining whether one or more feedback cancellation criteria are satisfied” (e.g., Figure 7, callout 704, paragraphs 41).

Claim 30 further requires, “canceling the feedback pertaining to the transaction if the one or more feedback cancellation criteria are satisfied” (e.g., Figure 7, callout 720, paragraph 46).

Claim 30 further requires, “the canceling of the feedback pertaining to the transaction including marking the feedback pertaining to the transaction as withdrawn” (e.g., Figure 7, callout 720, paragraphs 46).

Claim 30 further requires, “generating a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn” (Figure 24, callout 2402, paragraph 71),

This summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellant refers to the appended claims and its legal equivalents for a complete statement of the invention.

6. GROUNDS OF REJECTION TO BE REVIEWED ON

Claims 1-7, 9-25 and 27-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vaidyanathan et al. (U.S. Publication No. 2004/0128155; hereinafter Vaidyanathan).

7. ARGUMENT

A) The Applicable Law under 35 U.S.C. §103(a)

“To establish a *prima facie* case of *obviousness*, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellant's disclosure.” *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

“To establish *prima facie obviousness* of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP 2143.03 citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP 2143.03 citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

B) The rejection of claims 1-7, 9-25 and 27-34 was erroneous because the references relied upon in the Final Office Action do not teach or suggest every element of the claims at issue

Claim 16 includes the following limitations:

marking the feedback pertaining to the transaction as withdrawn if the one or more feedback cancellation criteria are satisfied; and

generating a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn.

The following quote from Vaidyanathan is relevant:

[0111] If the process is automated or if the parties agree to reputation repair, similar processes reputation correction module 34D interacts with electronic marketplace 18 to automate the removal or correction of feedback initially provided by one or both of the parties (152).

The above quote describes a reputation correction module. Specifically, the reputation correction module is described as interacting with an electronic marketplace to remove or correct the feedback.

Claim 16 requires marking feedback pertaining to a transaction as withdrawn and generating a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn. Merely for example, “[i]n one embodiment, when a user requests to see all feedback left for some other user, cancelled feedback (if any) is displayed with a comment indicating that this feedback has been withdrawn” (Application, paragraphs 38, 71 and Figure 24).

In contrast to the limitations of claim 16, the above quote from Vaidyanathan, as indicative of Vaidyanathan in general, does not describe marking the feedback pertaining to the transaction as withdrawn and generating a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn; but rather, removing the feedback and correcting the feedback. Marking the feedback as withdrawn is not the same as removing the feedback (e.g., see Response to Non-Final Action mailed February 3, 2006, paragraph 6).

In response, the Final Office Action states:

“The Examiner respectfully disagrees. Applicant admits that Vaidyanathan teaches “removing the feedback and correcting the feed back.” However, the Examiner takes issue with Applicant’s assertion that removing feedback is not the same as withdrawing feedback. Merriam-Webster’s Collegiate® Thesaurus (©1988) provides the word “remove” as the first listed synonym for the word “withdraw.” Other listed synonyms are “takeaway, take off, take out.” Therefore, the Examiner submits that removing feedback is synonymous with withdrawing feedback, thereby addressing the claimed withdrawal of feedback.”

Final Office Action mailed July 28, 2006

Appellants respectfully submit that the above response misstates Appellants’ argument. Appellants have not argued “removing feedback is not the same as withdrawing feedback,” but rather, *marking feedback as withdrawn* is not the same as removing the feedback. Merely for example, consider the following illustration:

Member Profile: dream1n90 (3538 ★)

Feedback Score: 3538
Positive Feedback: 98.8%

Members who left a positive: 3531
Members who left a negative: 3
All positive feedback received: 6587

Recent Ratings:

	Full	Partial	Full	Partial
	5 Stars	4 Stars	3 Stars	2 Stars
Positive	3471	1630	2935	1
Negative	1	1	1	1

Member since: Jul 1997
Location: United States

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All Feedback Received: [From Buyers](#) [From Sellers](#) [Left for Others](#)

(3538 feedback received by dream1n90 (5 mutually withdrawn))

Page 1 of 30

Comment	From	Date / Time	Item #
Excellent seller, fast emails and shipment. AAA+++	Buyer (b2/33M/11408 ★)	Feb-20-03 14:38	2.8729881
ABSOLUTELY THE PERFECT ORDER. SENT IMMEDIATELY. JUST WONDERFUL. THANKS	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729882
Very fast transaction, quick delivery	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729883
An excellent customer, thank you for your business!	Seller (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729884
Would not trade again, never shipped my item! Reply by dream1n90: I emailed you 5 times but no response. Don't waste the person's follow-up by taking longer. I don't get any emails.	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729885
Fast payment! Excellent	Seller (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729886
Thanks again! Always a pleasure.	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729887
Shipping took a while. But offered me refund	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729888
Another good deal! Business was a pleasure.	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729889
Never shipped the item! Bad Seller	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729890
Reply by dream1n90: Shipment was delayed by UPS. Arrived 2 days later on Feb 20th. Withdrawn: Buyer and seller mutually agreed to withdraw feedback for this item. Learn more	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729891
Good communication and packaging	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729892
Buy from this guy! He is the best!	Buyer (m2/33M/11408 ★)	Feb-20-03 17:20	2.8729893

FIG. 24

Figure 24 includes a callout 2402 that identifies withdrawn feedback with the string “Withdrawn: Buyer and Seller mutually agreed to withdraw feedback for this item.” Marking the feedback as withdrawn requires the feedback not be removed. Further, the difference between marking a feedback as withdrawn and removing the feedback is not trivial. For example, potential buyers cannot evaluate feedback that has been removed. In contrast, potential buyers may evaluate feedback that has not been removed and is marked as withdrawn. Accordingly, the present invention as claimed provides a distinct advantage over the prior art towards creating an environment of credibility and trust by providing a buyer important information to make judgments.

The above remarks are also applicable to a consideration of independent claims 1, 10 and 30.

In light of the above, Appellants respectfully submit that the rejection under 35 U.S.C. § 103 has been overcome, and withdrawal of this rejection therefore respectfully requested.

8. SUMMARY

For the reasons stated above, the claims 1-7, 9-25 and 27-34 were not properly rejected under § 103(a) as being unpatentable over Vaidyanathan.

It is respectfully submitted that Vaidyanathan does not render the claims obvious and that the claims are patentable over Vaidyanathan. Reversal of the rejection and allowance of the pending claims are respectfully requested.

Respectfully submitted,

AMJAD HANIF et al.

By their Representatives,

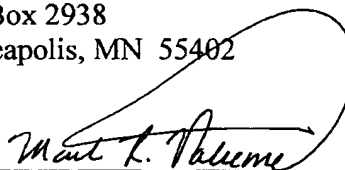
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

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Minneapolis, MN 55402

Date 12.18.2006

By



Mark R. Vatuone

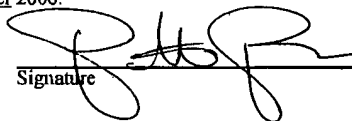
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Name

Peter P. Kuni

Signature



CLAIMS APPENDIX

1. An apparatus comprising:
 - a feedback cancellation request receiver to receive a request to cancel feedback pertaining to a transaction in a network-based transaction facility from a first party to the transaction;
 - a feedback cancellation criteria evaluator to automatically determine whether one or more feedback cancellation criteria are satisfied;
 - a feedback cancellation recorder to cancel the feedback pertaining to the transaction if the one or more feedback cancellation criteria are satisfied, the feedback cancellation recorder further to mark the feedback pertaining to the transaction as withdrawn; and
 - a feedback user interface generator to generate a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn.
2. The apparatus of claim 1 further comprising:
 - a feedback cancellation request processor to determine that a second party to the transaction agrees to cancel the feedback pertaining to the transaction.
3. The apparatus of claim 1 wherein the feedback pertaining to the transaction includes at least one of a feedback comment left by the first party for a second party to the transaction and a feedback comment left by the second party for the first party.
4. The apparatus of claim 1 wherein the feedback cancellation request receiver is further to identify a second party to the transaction based on input provided by the first party, to present to the first party information identifying the second party and the feedback pertaining to the transaction, and to receive a confirmation of the request to cancel feedback from the first party.
5. The apparatus of claim 4 wherein the input provided by the first party includes an identifier of an item associated with the transaction.

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6. The apparatus of claim 1 further comprising:
a feedback cancellation request processor to notify a second party to the transaction about the request to cancel feedback.
7. The apparatus of claim 2 wherein the feedback cancellation request processor is to determine that the second party agrees to cancel the feedback by presenting to the second party information identifying the transaction for which the first party submitted the request to cancel feedback, and receiving a confirmation of feedback cancellation from the second party.
9. The apparatus of claim 1 wherein the one or more feedback cancellation criteria includes at least one requirement selected from the group consisting of a requirement that at least one feedback comment pertaining to the transaction exist, a requirement that the request to cancel feedback be received before an expiration date of the transaction, a requirement that a second party to the transaction agree to cancel feedback before an expiration date of the request to cancel feedback, a requirement that each of the first and second parties be currently registered with the network-based transaction facility, and a requirement that each of the first and second parties do not exceed a feedback cancellation limit.
10. A system comprising:
memory; and
a processor, coupled to the memory, to receive a request to cancel feedback pertaining to a transaction in a network-based transaction facility from a first party to the transaction, to automatically determine whether one or more feedback cancellation criteria are satisfied, and to cancel the feedback pertaining to the transaction if the one or more feedback cancellation criteria are satisfied by marking the feedback pertaining to the transaction as withdrawn, the processor further to generate a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn.

11. The system of claim 10 wherein the processor is further to determine that a second party to the transaction agrees to cancel the feedback pertaining to the transaction.

12. The system of claim 10 wherein the feedback pertaining to the transaction includes at least one of a feedback comment left by the first party for a second party to the transaction and a feedback comment left by the second party for the first party.

13. The system of claim 10 wherein the processor is further to identify a second party to the transaction based on input provided by the first party, to present to the first party information identifying the second party and the feedback pertaining to the transaction, and to receive a confirmation of the request to cancel feedback from the first party.

14. The system of claim 10 wherein the processor is further to notify a second party to the transaction about the request to cancel feedback.

15. The system of claim 10 wherein the one or more feedback cancellation criteria includes at least one requirement selected from the group consisting of a requirement that at least one feedback comment pertaining to the transaction exist, a requirement that the request to cancel feedback be received before an expiration date of the transaction, a requirement that a second party to the transaction agree to cancel feedback before an expiration date of the request to cancel feedback, a requirement that each of the first and second parties be currently registered with the network-based transaction facility, and a requirement that each of the first and second parties do not exceed a feedback cancellation limit.

16. A computer-implemented method to cancel feedback pertaining to a transaction in a network-based marketplace, the method comprising:

receiving a request to cancel feedback pertaining to the transaction in the network-based transaction facility from a first party to the transaction;

automatically determining whether one or more feedback cancellation criteria are satisfied;

canceling the feedback pertaining to the transaction, the canceling of the feedback pertaining to the transaction including marking the feedback pertaining to the transaction as withdrawn; and

generating a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn.

17. The computer-implemented method of claim 16 further comprising:
determining that a second party to the transaction agrees to cancel the feedback pertaining to the transaction.
18. The computer-implemented method of claim 16 wherein the feedback pertaining to the transaction includes at least one of a feedback comment left by the first party for a second party to the transaction and a feedback comment left by the second party for the first party.
19. The computer-implemented method of claim 16 further comprising:
identifying a second party to the transaction based on input provided by the first party;
presenting to the first party information identifying the second party and the feedback pertaining to the transaction; and
receiving a confirmation of the request to cancel feedback from the first party.
20. The computer-implemented method of claim 19 wherein the input provided by the first party includes an identifier of an item associated with the transaction.
21. The computer-implemented method of claim 20 wherein identifying the second party comprises:
determining that the item is associated with a plurality of transactions;
presenting to the first party one or more users participating in the plurality of transactions; and
requesting the first party to specify which of the one or more users is the second party.

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22. The computer-implemented method of claim 16 further comprising:
notifying a second party to the transaction about the request to cancel feedback.
23. The computer-implemented method of claim 22 wherein notifying the second party comprises:
sending to the second party an email message informing the second party of the request to cancel feedback pertaining to the transaction.
24. The computer-implemented method of claim 23 wherein the email message sent to the second party includes a link to a feedback cancellation form.
25. The computer-implemented method of claim 17 wherein determining that the second party agrees to cancel the feedback comprises:
presenting to the second party information identifying the transaction for which the first party submitted the request to cancel feedback; and
receiving a confirmation of feedback cancellation from the second party.
27. The computer-implemented method of claim 16 further comprising:
upon receiving a request for feedback left for any one of the first party and a second party to the transaction, displaying one or more feedback comments pertaining to the transaction with a feedback withdrawal comment.
28. The computer-implemented method of claim 16 further comprising:
preventing any of the first party and a second party to the transaction from entering feedback comments for the transaction upon canceling the feedback pertaining to the transaction.

29. The computer-implemented method of claim 16 wherein the one or more feedback cancellation criteria includes at least one requirement selected from the group consisting of a requirement that at least one feedback comment pertaining to the transaction exist, a requirement that the request to cancel feedback be received before an expiration date of the transaction, a requirement that a second party to the transaction agree to cancel feedback before an expiration date of the request to cancel feedback, a requirement that each of the first and second parties be currently registered with the network-based transaction facility, and a requirement that each of the first and second parties do not exceed a feedback cancellation limit.

30. A computer readable medium comprising instructions, which when executed on a processor, cause the processor to perform a method comprising:

- receiving a request to cancel feedback pertaining to a transaction in a network-based transaction facility from a first party to the transaction;

- automatically determining whether one or more feedback cancellation criteria are satisfied;

- canceling the feedback pertaining to the transaction if the one or more feedback cancellation criteria are satisfied,

- the canceling of the feedback pertaining to the transaction including marking the feedback pertaining to the transaction as withdrawn; and

- generating a user interface that presents the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn.

31. The computer readable medium of claim 30 wherein the method further comprises:

- determining that a second party to the transaction agrees to cancel the feedback pertaining to the transaction.

32. The computer readable medium of claim 30 wherein the feedback pertaining to the transaction includes at least one of a feedback comment left by the first party for a second party to the transaction and a feedback comment left by the second party for the first party.

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33. The computer readable medium of claim 30 wherein the method further comprises:
identifying a second party to the transaction based on input provided by the first party;
presenting to the first party information identifying the second party and the feedback
pertaining to the transaction; and
receiving a confirmation of the request to cancel feedback from the first party.
34. The computer readable medium of claim 30 wherein the one or more feedback
cancellation criteria includes at least one requirement selected from the group consisting of a
requirement that at least one feedback comment pertaining to the transaction exist, a requirement
that the request to cancel feedback be received before an expiration date of the transaction, a
requirement that a second party to the transaction agree to cancel feedback before an expiration
date of the request to cancel feedback, a requirement that each of the first and second parties be
currently registered with the network-based transaction facility, and a requirement that each of
the first and second parties do not exceed a feedback cancellation limit.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.